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Proposal to waive Section 3122(a)(3)(A)(iii) of ESEA

October 8, 2015

The South Dakota Department of Education (SD DOE) plans to request a waiver of section 3122(a)(3)(A)(iii) of Title III of the Elementary and Secondary Education Act of 1065 (ESEA) for the 2015–16 school year. The request is being made due to the state's transition to a new state assessment in reading and mathematics.

Upon receipt of a waiver from the U.S. Department of Education, SD DOE administered a field test of the Smarter Balanced assessment in school year 2013–14 and administered the operational version of the test for the first time in school year 2014–15. These assessments are aligned to college- and career-ready standards. No results were available from the 2013–14 field test.

South Dakota requests this waiver to permit affected LEAs receiving Title III subgrants to continue the same Title III interventions in 2015–2016 that they implemented in 2014–2015 for LEAs that do not meet the annual measurable objectives (AMOs) component of AMAO 3 for the 2014–2015 school year due to the transition to new assessments.

In determining whether a Title III LEA met AMAOs 1 and 2 for the 2014–15 school year, SD DOE will continue to use the 2015 ACCESS results. This is not a change. In determining AMAO 3 for the 2014–15 school year, because relevant data is not available, South Dakota will carry over the AMAO 3 determination that was used for LEAs in school year 2013–14 for school year. This is a change.

If South Dakota is granted the requested waiver, SD DOE will:

- Resume annual accountability determinations, including AMAO 3, based on state assessments administered in the 2015–16 school year.
- Continue to ensure that LEAs receiving Title III subgrants provide high-quality language instruction educational programs to the ELs and comply with all Title III requirements.

Public Comment

To comment on SD DOE's proposed waiver request, please email Yutzil Becker, South Dakota Department of Education, at yutzil.becker@state.sd.us. Written comments may be mailed to South Dakota Department of Education, Attn: Yutzil Becker, 800 Governors Drive, Pierre, SD 57501. Public comment must be received by Oct. 23, 2015, 5 p.m. (Central Time).